



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 47

ORIGINAL REGISTRATION OF WATERCRAFT, SNOWMOBILES AND ALL-TERRAIN VEHICLES

This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains general and specific information of interest as well as interpretations and determinations by Maine Revenue Services regarding issues commonly faced by your business. Portions of the Sales and Use Tax Law referred to in this bulletin can be found at the end of the bulletin in Attachment #1. Also attached are applicable Sales and Use Tax Rules.

The applicant for the original registration of a snowmobile purchased by a resident of this State, any watercraft or any all-terrain vehicle, must present either a properly completed Dealer's Certificate or a Use Tax Certificate. When the Dealer's Certificate is submitted, the person seeking registration is not liable for the Maine use tax. **When the person seeking to register does not present the Dealer's Certificate, the Use Tax Certificate must be fully completed, unless the property is a snowmobile and the present owner is not a resident of this State.** When the Use Tax Certificate indicates that tax is due, the tax must be paid before the registration is issued.

1. DEALER'S CERTIFICATE

Except for snowmobiles sold to persons who are not legal residents of this State (see section 3e), Maine dealers must provide their customers with a "Dealer's Certificate" showing either that the sales tax has been collected by the dealer, or that the sale is exempt or otherwise not subject to tax. A properly completed Dealer's Certificate must be submitted to the registering agent as a prerequisite to any original registration.

It is the responsibility of Maine dealers to collect and report the sales tax on all retail sales made in this State, unless the purchaser qualifies for one of the tax exemptions discussed below. A Maine dealer does not have the option of allowing customers to pay the use tax directly to the registering agent at the time of registration, and the dealer will be held accountable for the tax on all taxable retail sales.

2. USE TAX CERTIFICATE

Watercraft, all-terrain vehicles, and snowmobiles purchased at casual sale or from dealers located outside this State are subject to the Maine use tax, unless the purchase is exempt. **Any person who seeks an original registration for a watercraft, all-terrain**

vehicle, or snowmobile without presenting the Dealer's Certificate, must fully complete the Use Tax Certificate, unless the property is a snowmobile and the present owner is not a resident of this State. When the Use Tax Certificate indicates that the tax is due, it must be paid before the registration is issued.

A Use Tax Certificate can be obtained by anyone requiring one from the Department of Inland Fisheries and Wildlife or its registering agents, or from the Sales and Use Tax Section of Maine Revenue Services. Registering agents may obtain a supply of certificates by contacting the Sales and Use Tax Section.

3. TAX EXEMPTIONS

An applicant for the original registration of a watercraft, snowmobile or all-terrain vehicle who claims exemption from sales and use tax, can register the vehicle without payment of tax only by providing evidence which satisfies the conditions of one of the exemptions described below. The document supporting the exemption, or a copy of it, should be attached to the Use Tax Certificate. When the document cannot be attached, it is acceptable for the registration agent to examine the document and write their initials and "seen" next to the completed exemption section on the Use Tax Certificate. Maine Revenue Services may, upon review of the Use Tax Certificate, request a copy of the document from the registrant.

a. Government agencies and exempt organizations. Sales made directly to the Federal Government, this State or any political subdivision of this State, or to any unincorporated agency of the above, are exempt from sales or use tax. In addition to the Federal Government, the State of Maine and any county, city, town or plantation in the State of Maine, this exemption covers sales to school districts in Maine; water, power, parking, sewer and other districts in Maine, established by legislative act as quasi-municipal corporations; village corporations; and the Maine Turnpike Authority.

No exemption number is issued to agencies of government. All that is required on a use tax certificate or a dealer's certificate is the name of the government agency and the signature of an authorized individual.

The Sales and Use Tax Law also provides exemptions for hospitals, certain schools, and regularly organized churches or houses of religious worship, as well as various other types of organizations. To qualify for exemption, these organizations must have been issued a certificate of exemption by Maine Revenue Services. The exemption certificate number (a five-digit number prefixed by the letter "E") must be entered in the appropriate box of the Dealer's Certificate or Use Tax Certificate if an exemption is claimed. Sales to organizations which do not hold and provide an exemption certificate will be deemed taxable.

This exemption does not apply to sales to clergy or to staff members or employees of exempt organizations. Such sales are taxable as in any other case.

b. Prior use of a watercraft or all-terrain vehicle outside the state of Maine. A watercraft or all-terrain vehicle which was purchased, registered and used by the present owner outside the State of Maine, where the owner was a bona fide resident of the other state at the time of purchase and where the watercraft or all-terrain vehicle is present in Maine not more than 30 days during the 12 months following its purchase, is exempt from the Maine use tax.

To qualify for the prior use exemption the watercraft or all-terrain vehicle must have been both purchased out-of-state and used out-of-state by the present owner, before being brought to Maine. Applicants who claim exemption based on prior use should provide a copy of their initial out-of-state registration of the watercraft or all-terrain vehicle.

c. Credit allowed for sales tax paid to other taxing jurisdictions. Credit is allowed for sales or use tax paid to other taxing jurisdictions against any Maine use tax which may be due. An applicant for original registration claiming credit for sales tax paid to another taxing jurisdiction must so indicate on the Use Tax Certificate and must provide a receipt of payment of such tax before credit will be allowed against the Maine use tax due on the transaction.

d. Watercraft purchased for use in commercial fishing or commercial aquaculture. A watercraft which is used directly and primarily for commercial fishing or commercial aquaculture qualifies for exemption. This exemption can be claimed only by persons who have been certified by Maine Revenue Services. Such persons claim this exemption by indicating "fishing" or "aquaculture" and the number shown on their exemption card in the "Other" section on the Use Tax Certificate. Claims by persons who do not have the exemption card are not acceptable; they must pay the tax and apply to Maine Revenue Services for certification and a refund.

e. Snowmobiles purchased by persons who are not residents of this State. To qualify as a person who is not a resident of this State, the person must have established a domicile (legal residence) outside this State. Legal residence means the place where a person has their true, fixed, and permanent home and principal establishment. A person can have only one legal residence; having a temporary residence in another state does not change the person's state of legal residency. A person means any individual, partnership, corporation, estate, trust or any club, association, society, or any other group acting as a unit.

4. DETERMINING THE AMOUNT SUBJECT TO TAX

The use tax is based on the full purchase price, whether given in money or otherwise. The cost for any attachments, accessories and any services performed prior to the sale must be included in the taxable purchase price. For example, an outboard motor sold with a watercraft is subject to the use tax. When the sale includes any accessory such as a boat cover or sails, or when the sale includes any service such as painting, storing or repairing, the cost for these items must be included in the taxable purchase price. However, boat trailers and vehicle trailers are not accessories, nor are they part of a watercraft or vehicle. These trailers are not subject to the use tax when they are purchased at casual sale. When the cost for such a trailer is not separately stated, it is acceptable for the person seeking registration to make a reasonable estimate of its cost and reduce the taxable purchase price by that amount.

The Maine Sales and Use Tax Law provides a credit for a trade-in on certain kinds of property when the trade-in is of the same kind as the property purchased. When a watercraft is traded-in on a watercraft, or when an all-terrain vehicle or a snowmobile is traded-in on either an all-terrain vehicle or a snowmobile, the allowance for the trade-in is creditable against the taxable purchase price. (Please note that both snowmobiles and all-terrain vehicles are considered to be motor vehicles.) When the item traded-in is not of the same kind, such as when a snowmobile is traded for a boat, the trade-in allowance becomes part of the purchase price and is subject to the tax. Attached motors, electronic and mechanical equipment and other machinery are considered part of a watercraft. When these items are attached to a watercraft being traded, their cost is part of the trade-in allowance. A boat trailer or a vehicle trailer is not part of a watercraft or a vehicle and therefore the cost of the trailer must be excluded from any trade-in allowance credited against the taxable purchase price.

5. SPECIAL SITUATIONS

a. Registration by a dealer. Dealers are not subject to the tax on property which they use only for demonstration or display while holding it in their inventory. Dealers who want to register property for demonstration or display must obtain a dealer's registration from the Department of Inland Fisheries and Wildlife. A dealer who seeks the standard registration for pleasure use is subject to the use tax.

b. Transfer of equity. Where an individual takes possession of a watercraft, snowmobile or all-terrain vehicle from the original purchaser and assumes payment of the remaining balance on an existing loan, the transaction will be

considered a casual sale. The use tax is payable by the individual assuming payments, based on the amount of the loan balance. Since insurance and finance charges are not subject to tax, the purchaser should obtain a "close-out" figure from the financial institution as a basis on which to pay the use tax.

c. Watercraft and all-terrain vehicles purchased in Maine by nonresidents.

Nonresidents can purchase watercraft and all-terrain vehicles tax exempt when the vehicle or watercraft is purchased for use and registration in another state. However, when such watercraft or all-terrain vehicles are present in this State for more than 30 days during the 12 month period following their date of purchase or are registered in Maine without also being registered in another state or documented with a location in Maine, within twelve months of the date of purchase, the person registering it becomes liable for Maine use tax based on the purchase price.

d. Sales by estates. All sales of watercraft, snowmobiles and all-terrain vehicles by personal representatives of estates are taxable. However, a vehicle received by a beneficiary of a decedent is not taxable, as the transaction is not in the nature of a sale.

e. Purchases through a broker. Dealers are not required to collect the sales tax or issue a Dealer's Certificate for a bona fide brokerage sale. Unless the purchaser voluntarily paid the sales tax to the dealer and submits the Dealer's Certificate indicating that the tax was paid, the use tax is due prior to registration.

f. Vehicles purchased by military personnel. Vehicles purchased by military personnel are subject to use tax in exactly the same way as purchases by a civilian.

6. ADDITIONAL INFORMATION.

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law faced by your business. It is not intended to be all inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to the:

**MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION
P.O. BOX 1065
AUGUSTA, ME 04332-1065
TEL: (207) 624-9693
TTY: (207) 287-4477**

<p>The Department of Administrative and Financial Services does not discriminate on the basis of disability in admission, to access to, or operation of its programs, services or activities.</p>

Issued: October 1, 1989

Last Amended: July 3, 1995

(Published under Appropriation 010-18F-0002-07)

ATTACHMENT #1
Excerpts taken from 36 M.R.S.A.

36 §1752. Definitions

The following words, terms and phrases when used in chapters 211 to 225 have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1-D. Casual sale. "Casual sale" means an isolated transaction in which tangible personal property or a taxable service is sold other than in the ordinary course of repeated and successive transactions of like character by the person making the sale. "Casual sales" include transactions by a civic, religious or fraternal organization which is not a registered retailer at a bazaar, fair, rummage sale, picnic or similar event. The sale by a registered retailer of tangible personal property which that retailer has used in the course of the retailer's business is not a "casual sale" if that property is of like character to that sold in the ordinary course of repeated and successive transactions. "Casual sale" does not include any transaction in which tangible personal property is sold by a representative for the owner's account when that representative is a registered retailer and the registered retailer shall have the same duties respecting any such transaction as if the representative had sold on the representative's own account.

7. Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways. "Motor vehicle" includes an all-terrain vehicle as defined in Title 12, section 7851 and a snowmobile as defined in Title 12, section 7821.

24. Watercraft. "Watercraft" means any type of vessel, boat, canoe or craft designed for use as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, which are customarily used in the operations of the watercraft.

36 §1755. No registration unless tax paid

Whenever any tangible personal property whose sale or use is subject to tax under chapters 211 to 225 is required to be registered for use within this State by any law other than this, the applicant for registration, whether or not the owner, shall himself be liable for the sales tax or use tax or shall prove that said tax is not owing. Such applicant shall file with the registering agency a certificate in such form as may be prescribed by the Tax Assessor containing the name of vendor, date of purchase, sale price and such other information as may be pertinent to determination of tax liability; and the registering agency shall forward such certificate promptly to Maine Revenue Services.

36 §1760. Exemptions

No tax on sales, storage or use shall be collected upon or in connection with:

2. State and political subdivisions. Sales to the State or any political subdivision, or to the Federal Government, or to any unincorporated agency or instrumentality of either of them or to any incorporated agency or instrumentality of them wholly owned by them. This exemption shall not apply where title is held or taken as security for any financing arrangement.

25. Watercraft sold to nonresidents. Sales in this State to nonresidents of watercraft, when such craft are either delivered outside the State or delivered in the State to be sailed or transported outside the State immediately upon delivery by the seller; and any sales to nonresidents, under contracts for the construction of any such craft to be so delivered, of materials to be incorporated; and any sales to nonresidents for the repair, alteration, refitting, reconstruction, overhaul or restoration of any such craft to be so delivered, of materials to be incorporated. Unless the craft is present in the State for more than 30 days during the 12-month period following its date of purchase or is registered in Maine without also being registered in another state or documented with a location in this State, within 12 months of the date of purchase, the purchaser is exempt from the use tax.

25-B. Snowmobiles. A snowmobile, as that term is defined in Title 12, section 7821, subsection 5, purchased by a person who is not a resident of this State;

45. Certain property purchased outside the State. Sales of property purchased and used by the present owner outside the State:

A-1. If the property is a watercraft or all-terrain vehicle that is registered outside the State by an owner who at the time of purchase was a resident of another state and the watercraft or all-terrain vehicle is present in the State not more than 30 days during the 12 months following its purchase;

36 §1764. Tax against certain casual sales

The tax imposed by chapters 211 to 225 must be levied upon all casual sales involving the sale of camper trailers, motor vehicles, special mobile equipment, livestock trailers, watercraft or aircraft except those sold for resale at retail sale or to a corporation when the seller is the owner of a majority of the common stock of the corporation.

36 §1952-A. Payment of tax on vehicles and watercraft

The tax imposed by chapters 211 to 225 on the sale or use of any vehicle or watercraft must, except where the dealer of the vehicle or watercraft has collected the tax in full, be paid by

the purchaser or other person seeking registration of the vehicle or watercraft at the time and place of registration of the vehicle or watercraft. In the case of vehicles except snowmobiles and all-terrain vehicles, the tax must be collected by the Secretary of State and transmitted to the Treasurer of State as provided by Title 29, chapter 5, subchapter 1-A. In the case of watercraft, snowmobiles and all-terrain vehicles, the tax must be collected by the Commissioner of Inland Fisheries and Wildlife and transmitted to the Treasurer of State as provided by Title 12, sections 7793-A to 7793-E, 7824-A to 7824-E or 7854-A ,7842-B, 7824-E and 7824-F.

36 §1955-C. Assessment for vehicles

Certificates forwarded to the State Tax Assessor under Title 29, section 204 or Title 12, section 7793-C, 7824-F or 7854-C, must be treated as returns filed under this Title for purposes of section 141.